



PART OF YOUR COMPLIANCE TEAM

DECEMBER 2022 FREE COMPLIANCE NEWSLETTER

FTC IS PROPOSING A FORMAL RULE ON JUNK FEES

The FTC has officially posted a notice of proposed rulemaking (ANPR) regarding recent discussion on junk fees. This authority permits the Commission to make and adjust rules that define with specificity acts or practices that are unfair or deceptive in regards to these fees.

For this ANPR, the term “junk fees” refers to unfair or deceptive fees that are charged for goods or services that have little or no added value to the consumer, including goods or services that consumers would reasonably assume to be included within the overall advertised price; the term also encompasses “hidden fees,” which are fees for goods or services that are deceptive or unfair, including because they are disclosed only at a later stage in the consumer's purchasing process or not at all, whether or not the fees are described as corresponding to goods or services that have independent value to the consumer. These terms may overlap—a junk fee can be a hidden fee, but not all junk fees are hidden fees. If you want to read the proposal and offer comments, you can do so [HERE](#).

UPCOMING FAIR LENDING TRAINING OPPORTUNITIES

Fair lending training is a big part of our organization through Tuscan Club University. As you decide how to allocate your 2023 training budgets, we wanted to let you know that we will be running a 25% discount on our fair lending school and Fair Lending Expert (FLE) Certification program. The special will start in January run through February 2023. This one-of-a-kind training program teaches you from the ground up how to build and audit a fair lending program. We have already certified more than 100 students from across the country working in banks, credit unions, and mortgage companies, and the feedback has been overwhelmingly positive. It's all online, so there is no travel cost. To learn more about the school and certification you can click [HERE](#). If you are interested in signing up, the coupon code will be available on our website starting January 1.

We also have a Fair Lending Expert (FLEX) working group that you may not be aware of. We meet quarterly for 2 hours to provide additional fair lending education, answer questions, and share findings and ideas with different lenders around the country. We submit all training sessions to ABA for CRCM credit, so you could earn up to 10 hours in 2023 by joining the group. The cost is \$800 for your whole organization, but the group is focused to compliance and audit professionals. This is not a lender focused group. We have organizations of all different sizes from around the country who join. We had 24 organizations part of the group in 2022, and we are now opening it up for new members in 2023. To learn more, you can click [HERE](#).

2022 FAIR LENDING INTERAGENCY WEBINAR

The Federal Reserve is hosting another interagency webinar on Tuesday December 6th. This is a free training event and will have speakers from many different regulatory agencies. If you want to sign up, you can do so [HERE](#). For those of you that have our FLE certification, this is a great opportunity to get a free credit hour towards your continuing education requirements.

FDIC REPRESENTMENT ISSUE UPDATE

If you read our monthly newsletters, or even if you don't, you should at least be aware of the representation issue for non-sufficient funds charges. We have a newsletter subscriber that discussed this with the FDIC as they have an examination coming up soon, and they shared the feedback with us to pass along to all of you. The FDIC indicated that as long as they have a plan in place and are working to complete the restitution, they shouldn't see issues on their exam. If they choose not to, the FDIC will likely cite a UDAAP violation, and the kicker is that the 2-year voluntary restitution period will be extended to 5 years if they have to force the issue and cite a violation. Based on our discussions with many banks, FDIC-regulated institutions are moving forward with the lookback and restitution. If you are an FDIC bank and are on the fence or have decided not to, this may or may not change your mind.

CFPB SUPERVISORY EXAMINATIONS FIND CREDIT REPORTING FAILURES, JUNK FEES, AND MISHANDLING OF COVID-19 PROTECTIONS

The Fall 2022 CFPB Supervisory Highlights is now available. In it, they discuss several topics we have already mentioned in this month's newsletter and other topics including inaccurate information in credit reporting, illegal "pay-to-pay" fees in mortgage servicing, UDAAP practices in auto loans, and mishandling of COVID-19 relief. You can find the full report [HERE](#).

CFPB ISSUES GUIDANCE TO ADDRESS SHODDY INVESTIGATION PRACTICES BY CONSUMER REPORTING COMPANIES

In our experience, banks are pretty good about handling credit bureau disputes, but this is a good reminder of the importance of doing it the right way. The CFPB has released a circular about companies skirting dispute investigation requirements. The CFPB has found that consumer reporting companies and some furnishers have failed to conduct reasonable investigations of consumer disputes and to spend the time necessary to get to the bottom of inaccuracies. These failures can affect, among other things, people's eligibility for loans and interest rates, for insurance, and for rental housing and employment. You can get more details and read the circular [HERE](#).